

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

I. CLAIM STATUS AND AMENDMENTS

Claims 1-13 and 15-26 were pending in this application when last examined and stand rejected.

Claim 3 is amended to insert a comma before "wherein."

Claims 9, 12, 13, and 18 are amended to address the formal matters raised in the Office Action. Support for amended claim 9 can be found in the disclosure, for example, at pages 5-6. Support for amended claim 12 can be found in the disclosure, for example, at page 6, lines 32-34. Support for amended claim 13 can be found in original claim 13. Support for amended claim 18 can be found in the disclosure, for example, at page 7, lines 17-21, page 8, lines 30-32 and original claim 18. No new matter has been added.

The specification has been responsively amended at pages 1 and 2 to respond to address formal matters. Support can be found in the disclosure, for example, at page 4, lines 18-32 and page 5, lines 4-22. No new matter has been entered by way of this amendment.

The present amendment merely addresses formal matters. As such, the amendment must be entered and considered after final rejection, because the subject matter of the amended claims was

fully considered in the current Office Action. Therefore, there is nothing that would require further consideration and/or search, and hence no ground for refusing entry to this amendment. Further, it is noted that the claims have been amended as suggested by the Office. Accordingly, if the next Office Action on the merits includes a new rejection of one or more claims, the Action must be non-final.

II. OBJECTIONS TO THE SPECIFICATION

On page 2 of the Office Action, the specification was again objected on the basis that "[t]he specification teaches the binder phase consists of a cement-based system and then state the cement-based system comprises cements selected from the group consisting of ...".

The issue is believed to be resolved by amending the specification at pages 1 and 2 to change the "consisting of" to the open language "comprising" for the binder phase. Support can be found at page 4, lines 18-32 and page 5, lines 4-22. Further, as acknowledged by the Examiner, the specification states the cement-based system comprises.

Thus, the present amendment overcomes this objection by responsively amending the specification to remove the noted inconsistency. Withdrawal of the objection is thus solicited.

III. WRITTEN DESCRIPTION REJECTION

Claims 9, 10, 12 and 17-19 were again rejected under section 112, first paragraph, for failing to comply with the written description requirement for the reasons on pages 2-3 of the Office Action. Applicants respectfully disagree.

The specification makes clear that the powdered material comprises the granules and may further comprise an additive. At pages 5-6, the specification indicates that the non-compacted additive material is present in an amount up to 50% by weight. See in particular, page 5, lines 10-12. Applicants have amended claim 9 to reflect this, thereby obviating the Office's concern regarding the amount of non-compacted additives.

Claim 12 is amended as suggested by the Examiner to indicate that the granules in the powdered material according to claim 1 are formed as a raw compact. Support can be found in the disclosure, for example, at page 6, lines 32-34. This amendment thereby obviates the Examiner's concern regarding the raw compact in claim 12.

On page 3, it was indicated that there is no teaching of finely dividing this compacted material into granules of claim 13, and thus claim 17 is new matter. Applicants respectfully submit that the specification and claims as originally filed provide clear written support for this terminology. Please see original claim 13, which states that "said powdered material is compacted to a degree of compaction above 55 %, where after it is

finely divided into granules of powder particles, which granules exhibit a mean size of 30 - 250 μ m." Since the originally filed claims form part of the disclosure, it is clear that claim 13 provides written description support for the rejected terminology.

Applicants have amended claim 18 to remove reference to "a further component" and to reflect the language suggested by the Examiner that corresponds to the originally filed disclosure, for instance, at page 7, lines 17-21, page 8, lines 30-32 and original claim 18.

Finally, with respect to the rejection of claims 18-19 regarding the terms "applying or packing", Applicants believe that the disclosed methods of "squirting" or "injecting" provide written support for "applying the paste." Clearly, "squirting" or "injecting" is form of applying the paste. Thus, there is no reason to doubt the written support for the claim terminology "applying the paste." Nonetheless, Applicants have amended claim 18 to specify that said applying step occurs by injecting or squirting.

Withdrawal of the rejection is solicited.

IV. INDEFINITENESS REJECTION

Claims 1-13 and 15-23 were rejected as indefinite for the reasons on pages 3-4 of the Office Action. This rejection is respectfully traversed.

On page 3 of the Office Action, it was indicated that it is unclear what constitutes the composition of powder particles of which the granules are composed. In reply, claim 1 clearly indicates that the "powdered material" comprises a cement-based system and granules of powder particles, which granules exhibit a degree of compaction above 55% and a mean size of 30-250 μm . Thus, it is clear that the powdered material is composed of the granules of powder particles. Also, as clearly recited in claim 6, the granules also comprise one or more additives. Claims 7-8 and 25-26 further define the additives. It is believed the claim language is clear and consistent on its face to the skilled artisan.

Claim 13 is amended in a non-narrowing manner to clarify that the claimed method is directed to a powdered material. Claim 18 and 19 depend on claim 13 and further comprise the steps of applying the paste to a space/cavity to be filled with a ceramic material.

Claims 23-23 are cancelled.

The claims are thus clear, definite and have full antecedent basis. This rejection is believed to be overcome, and withdrawal thereof is respectfully requested.

V. PRIOR ART REJECTIONS

Claims 21 and 23 were rejected under 35 U.S.C. § 102(b) as anticipated US 3,655,035 for the reasons on page 4 of the Office Action.

Claims 21 and 22 were rejected under 35 U.S.C. § 102(b) as anticipated US 4,973,168 for the reasons on pages 4-5 of the Office Action.

For the sole purpose of expediting prosecution and not to acquiesce to the rejections, Applicants have cancelled claims 21-23 without prejudice or disclaimer thereto. Thus, the present amendment renders the rejections moot.

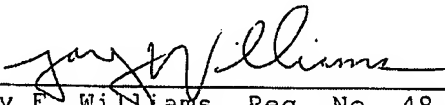
VI. CONCLUSION

Having addressed all the outstanding issues, the amendment is believed to be fully responsive. In view of the above, it is respectfully submitted that the application is in condition for allowance and notice to that effect is hereby requested. If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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